

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DUPREE LAMONT ADKINS,
Plaintiff,
v.
DITOMAS, et al.,
Defendants.

No. 2:22-CV-1650-TLN-DMC

ORDER

Plaintiff DuPree Lamont Adkins (“Plaintiff”), a prisoner proceeding pro se, brings this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 27, 2025, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within the time specified therein. (ECF No. 23.) Defendants filed timely objections to the findings and recommendations. (ECF No. 24.)

Defendants object only to the magistrate judge’s recommendation that Defendants be required to file answers in this action and the two new actions that will be opened once misjoined claims are severed. (*See* ECF No. 24.) Defendants argue that this recommendation, if adopted, would foreclose motions to dismiss. (*Id.* at 1–2.)

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1 The Court presumes that any findings of fact are correct. *See Orand v. United States*, 602
2 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed *de novo*.
3 *Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007). Having carefully reviewed the entire file,
4 the Court finds the findings and conclusions of law to be supported by the record and by proper
5 analysis. With respect to the magistrate judge's recommendations, Defendants' objection is well
6 taken, and the Court agrees that directing Defendants to file responses instead of answers is
7 appropriate. The Court otherwise agrees with the magistrate judge's recommendations.

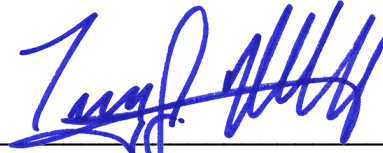
8 Accordingly, IT IS HEREBY ORDERED as follows:

- 9 1. The findings and recommendations filed June 27, 2025 (ECF No. 23) are ADOPTED;
- 10 2. Defendants' motion to sever (ECF NO. 19) is GRANTED;
- 11 3. This action shall proceed on Plaintiff's first amended complaint as to his claims
12 against Defendants Cueva and DiTomas;
- 13 4. All other claims and defendants are DISMISSED from this action;
- 14 5. The Clerk of the Court is directed to:
 - 15 a. Update the docket in Case No. 2:22-cv-1650 to reflect that Defendants Ali,
16 Olmedo, J. Gary, and J. Cavagnolo have been terminated as named defendants
17 in this action;
 - 18 b. Open a new action based on Plaintiff's first amended complaint for claims
19 brought against Defendant Cavagnolo;
 - 20 c. Open a new action based on Plaintiffs' first amended complaint for claims
21 brought against Defendants Garry and Olmedo-Corbett;
 - 22 d. Assign both new actions to the same district judge and magistrate judge as the
23 above-captioned action;
- 24 7. Defendants shall file responses in all three actions within 30 days of the date of this
25 order; and
- 26 8. This matter is referred back to the assigned magistrate judge for further proceedings.

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Date: September 9, 2025



TROY L. NUNLEY
CHIEF UNITED STATES DISTRICT JUDGE